

### **AMENDMENTS TO DRAWINGS**

Attached please find replacement drawings correcting the objections raised in the Office Action of March 17, 2008.

## **REMARKS**

The Office Action mailed March 17, 2008, has been received and reviewed. Claims 1 through 26 are currently pending in the application. Claims 1 through 26 stand rejected. Applicants have amended claims 14 and 15 and respectfully request reconsideration of the application as amended herein. No new matter has been added.

### **Information Disclosure Statement**

The Examiner states that the listing of references in the specification is not a proper information disclosure statement. Applicant has filed a new information disclosure statement comprising the references listed in the specification that were not included on the information disclosure statement submitted August 2, 2006.

### **Drawings**

The Examiner objected to the drawings as failing to comply with 35 C.F.R. 1.84(p)(4) because multiple reference characters were used to designate items. Applicant has corrected both the drawings and the specification. Because the changes to the specification are extensive a replacement specification has been prepared.

### **Specification**

The Examiner objected to the disclosure because of the following informality: page 11, line 13, "the canopy leading edge 340" should be changed to "the proper edge 340". This informality has been corrected in the replacement specification.

### **35 U.S.C. § 112**

The Examiner rejected claims 14 and 15 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "the fixed support mechanism" in the first line in claims 14 and 15 has been amended. Applicant respectfully requests that the rejection be withdrawn.

### **35 U.S.C. § 102 Anticipation Rejections**

#### Anticipation Rejection Based on Kida (U.S. 4,474,201)

Claims 1-10 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kida (U.S. 4,474,201), (hereinafter "Kida").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (Aug. 2001) (*quoting Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In addition, "the reference must be enabling and describe the applicant's invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that claims 1-10 and 13 are not anticipated by Kida because the reference does not disclose all the claim limitations of the presently claimed invention as set forth above.

Applicants submit that Kida does not disclose the claim limitations of "wherein at the asymmetrically positioned vertex point, the canopy is rotatable around a fixed longitudinal axis relative to the ground to provide an adjustable coverage zone within a desired stationary area . . .". (Independent Claims 1 and 13).

Kida discloses an umbrella with oval canopy. (Title) When opened the canopy automatically assumes an oval form or substantially oval form . . .". The umbrella is designed to solve the problem found with most conventional umbrellas, namely, that the person carrying the

umbrella is to the left or right of the coverage of the canopy with the possibility of incomplete coverage. (Col. 1, lines 6-15) The umbrella in Kida is designed to be carried by a person.

The Office Action states the following in rejecting claims 1-10 and 13:

Kida discloses a canopy comprising: a single pliable cloth cover (35) having an asymmetrical positioned vertex point (2) from which the cover projects with unequal extensions (FIG. 4), wherein at the asymmetrical positioned vertex point (the point where the support ribs meet), the canopy is rotatable around a fixed longitudinal axis (the axis being the axis of shaft 1) relative to the ground to provide an adjustable coverage zone within the desired stationary area at a time of day when rotated from a first canopy position to a second canopy position at an elevated level relative to the ground. Further, regarding claim 13, Kida discloses a fixed support mechanism (1) for positioning the canopy relative to the elevated level.

Applicant's claim 1 reads as follows:

***A canopy for a stationary covering device***, comprising:

a cover having an asymmetrically positioned vertex point from which the cover projects with unequal extensions, wherein at the asymmetrically positioned vertex point, the canopy is rotatable around a fixed longitudinal axis relative to the ground to provide an ***adjustable coverage zone within a desired stationary area*** when rotated from a first canopy position to a second canopy position at an elevational level relative to the ground. (emphasis added)

Kida's umbrella is designed to be carried while used, it is not stationary. There is no intent to provide coverage for a desired stationary area, rather, in direct contrast to Applicant's invention, Kida is designed for portability. Additionally, Kida is silent regarding "an asymmetrically positioned vertex point". The FIG. 4 cited by the Examiner is described as follows:

A plurality of short main ribs 3 and a plurality of long main ribs 18 (5 short main ribs 3 and 3 long main ribs 18 in FIG. 4) similar in construction to those shown in the first embodiment are arranged around the center pole 1 such that the same type of main ribs are successive (in FIG.4, 5 short main ribs 3 and 3 long main ribs 18), thus forming umbrella ribs, on which an umbrella cloth 33 serving as a canopy is spread and fixed, thus providing an umbrella 35. The canopy presents a substantially oval form similar to the conventional circular form spreading out to one side.

The above paragraph does not disclose "an asymmetrically positioned vertex point from which the cover projects with unequal extensions" as found in claim 1. The language clearly indicates that the umbrella is designed to be a substantially oval form similar to the conventional circular form.

Applicants submit that since Kida does not disclose all of the limitations of Applicants' invention as claimed, Gagnon cannot anticipate Applicants' invention as claimed under 35 U.S.C. § 102(b). Therefore, Applicants respectfully request that the rejections of claims 1-10 and 13 be withdrawn.

### **35 U.S.C. § 103(a) Obviousness Rejections**

#### Obviousness Rejection Based on Kida (U.S. Patent 4,474,201)

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kida. Applicants respectfully traverse this rejection, as hereinafter set forth.

The nonobviousness of independent claim 1 precludes a rejection of claim 11 which depends therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant requests that the Examiner withdraw the rejection to claim 11.

#### Obviousness Rejection Based on Kida (U.S. Patent 4,474,201) in view of Henderson (U.S. Patent 2,671,459)

Claims 12, 14, and 16-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kida in view of U.S. Patent 2,671,459 to Henderson (hereinafter "Henderson"). Applicants respectfully traverse this rejection, as hereinafter set forth.

The nonobviousness of independent claims 1 and 13 precludes a rejection of claims 12, 14, and 16-26 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant requests that the Examiner withdraw the rejections to claims 12, 14, and 16-26.

Obviousness Rejection Based on Kida (U.S. Patent 4,474,201) in view of Henderson (U.S. Patent 2,671,459) as applied to claim 12, and further in view of Ma (U.S. Patent Publication 2//2/0129847 A1)

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kida in view of Henderson and further in view of Ma (U.S. Patent Publication 2002/0129847 A1). Applicants respectfully traverse this rejection, as hereinafter set forth.

The nonobviousness of independent claims 1 and 13 precludes a rejection of claim 15 which depends therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant requests that the Examiner withdraw the rejections to claim 15.

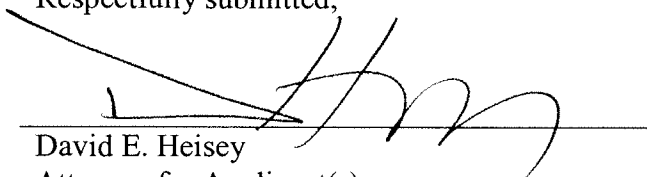
## CONCLUSION

Claims 1-26 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,

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Respectfully submitted,



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